

REMARKS/ARGUMENTS

The Decision on Appeal of September 17, 2008 and the remaining issues in the case have been reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 1-14, 18-23, 27-33, 35 and 43-51 remain in this application. Claim 34 has been canceled by the above amendment and claims 15-17, 24-26, and 36-42 were previously canceled.

Allowable Subject Matter

Applicant notes with appreciation the indication that the application contains allowable subject matter. Specifically, claims 45-51 have been allowed and claims 4, 19-22, 34 and 35 have been objected, but would be allowable if rewritten in independent form to include the subject matter of their base claim and any intervening claims. In this regard, applicants have amended independent claim 27 to incorporate the features of now canceled claim 34 to place claim 27 and claims 28-33, 35 and 44, which depend from claim 27, in immediate condition for allowance.

Claims 1-14, 18-23 and 44

The Board affirmed the final rejection of these claims. Previously, claims 1-3, 13-14, and 43 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. patent no. 6,370,262 to Kawabata.

Consistent with the Board Decision at page 8 and to differentiate independent claim 1 from Kawabata, applicants have amended claim 1 to call for, among other features,

identifying and outlining at least one object within a 2D image without using distance measurement data

Applicant submits that Kawabata lacks a teaching or suggestion of outlining at least one object within a 2D image without using distance measurement data as recited in amended claim 1. At col. 6, lines 44-49, Kawabata states that “[t]hus, for the blocks as determined as those of 2 m in FIG. 2B, it is determined from the data in the memory portion 14 which positions in the block correspond to the pixel portions in the above contour part. As a result, an image at the position in FIG. 2C is determined to be of 2 m”.

Notably, a contour is different from outlining an object. As known to those skilled in the art, a contour is a curve connecting points in a function of two variables where the function has the same particular value. Contour maps are generally used in topographic applications, but can be used to describe any smoothly varying data. A common use of contours is for atmospheric pressure systems. Tellingly, such pressure systems do not have a distinct outline or edge. A contour simply delineates an area of equal pressure.

A semantic object such as a car or person appearing in a digital image does not have contours. A single outline or shape defines the locations of such objects. Specifically, an object such as a low-pressure system can have an infinite number of contours while an object has only a single defining outline. Significantly, determining a contour for an object is not the same as outlining at least one object within a 2D image without using distance measurement data as recited in claim 1. Moreover, Kawabata does not actually determine a contour. Instead Kawabata merely points out that areas of the image with strong contrast are “pixel portions in a contour part of an image”. While high contrast areas occur in the contour part of the image, these areas do not in and of themselves define a contour. In Kawabata, measured distance data is necessary to define a contour.

In view of the above, Kawabata neither teaches nor suggests at least the claim 1 feature of outlining at least one object with a 2D image without using distance measurement data and then allocates a depth tag to the at least one object. Claims 2, 3, 13, 14, 23 (claim 23 was rejected as obvious over Kawabata alone) and 43, which depend from claim 1, for the same reasons as their base claim, and further in view of the novel features recited therein.

Claims 5-12, and 18 were rejected over Kawabata in combination with one additional reference. Notwithstanding whether any of the references were properly combinable with Kawabata, none of the other applied art overcomes the deficiencies identified with respect to Kawabata. For at least this reason, claims 5-12, and 18, which ultimately depend from claim 1, are patentably distinct from Kawabata in combination with the applied art.

CONCLUSION

All rejections having been addressed, applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same.

If any additional fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated: November 12, 2008

By: /Gary D. Fedorochko/
Gary D. Fedorochko
Registration No. 35,509

1100 13th Street, N.W.
Washington, D.C. 20005
Tel: (202) 824-3000
Fax: (202) 824-3001